

MEETING MINUTES, BOARD OF ZONING APPEALS, OCTOBER 8, 2007

Present: Phil Tinkle, Mike Campbell, Shan Rutherford, Ken Knartzer, Shawna Koons-Davis, City Attorney, William Peeples, Senior Planner; and Janice Nix, Recording Secretary

The meeting was called to order at 6:00 p.m. by Phil Tinkle, Chairman.

PREVIOUS MINUTES

September 10th – Rutherford moved to approve the minutes as mailed, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

FINDINGS OF FACT

Docket V2007-018 – Dimensional Variance – Jared Jewelers

Knartzer moved that in consideration of the statutory criteria that the Board adopt the written Findings of Fact, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2007-018, seconded by Rutherford. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Docket V2007-020 – Use Variance – Dukenet Communications

Rutherford moved that in consideration of the statutory criteria that the Board adopt the written Findings of Fact, incorporating the evidence submitted into the record, as our final decision and final action for Variance Petition Number V2007-020, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

OLD BUSINESS

Docket V2007-016 – Use Variance – Challenger Newspapers – located at 400 E. Main St. – request to allow newspaper business office (with free-standing ground sign) in R-2 Residential zone – Doug & Kelly Chambers, owners, representing.

Written request was received asking for continuance of V2007-016 until November 12, 2007. Attorney Joe Van Valer came forward and also requested in person for the continuance. Rutherford moved to approve the request for continuance, seconded by Campbell. Vote for **approval** of the **continuance** was unanimous, 4-0. **Motion carried.**

Docket V2007-019 - Use Variance – Cabela's – located on the southeast corner of County Line Rd. & I65 – request to provide for vehicle display; boat service, display and sales; recreational vehicle display; a dog kennel; sales and outdoor operations including the temporary display and sales of seasonal materials and merchandise; and a horse corral within the I65 Corridor Overlay District – Cabela's, owner; Michael Pipta, Callison, LLC, Applicant, representing.

Gary Rimington, Cabela's and members of the audience were sworn. The variance request has several components. Colored renderings were presented for the Board's review.

There were no remonstrators present in the audience.

1. **Criteria:** The approval will not be injurious to the public health, safety, morals, and general welfare of the community. **Answer:** The impact on traffic patterns and public safety will be in no way different than if the property were developed in accordance with the requirements of the Zoning Ordinance. Outside display areas will be located out of the way of the traveling public. Tent events will be held a few times throughout the year. No traffic will be allowed to travel around the tent area. Kennel occupants as well as RV parking is not allowed overnight.

2. **Criteria:** The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. **Answer:** The adjacent property is either commercial zoned, or planned for commercial uses. The establishment of a destination retail use, with conservative exterior displays and operations, on this property should increase the marketability of and value of adjacent land.
3. **Criteria:** The need for the Variance arises from some condition peculiar to the property involved. **Answer:** This property, and adjoining properties, are proposed for destination retail uses, which are unique to Greenwood. The unique primary use of the property as an outdoor outfitter includes several atypical accessory uses that are typically considered primary uses. Because these uses are accessory and subordinate to the primary use of the property the deviation from the Ordinance is not problematic. Additionally, the incorporation of enclosed or covered open space, properly screened from the Corridor Streets, would meet the intent of the outdoor storage and display prohibition.
4. **Criteria:** The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought. **Answer:** The proposed use is a destination retail use, and though our City and, as a result, our Ordinance, is retail-friendly, the Ordinance does not anticipate this style of retail use. The intent behind the use restrictions and prohibition within the Corridor Overlay district is to prohibit unsightly storage and display uses which detract from the viability of the area as a retail/logistics/health services employment area. The City's vision of the area, as expressed by the Land Use Plan of the Eastside Economic Development Area, is to encourage high quality major mixed use development within the I-65 Corridor Overlay Zone. All variance requests are for items that are part of a package that Cabela's supports for its stores.
5. **Criteria:** The approval does not interfere substantially with the Comprehensive Plan. **Answer:** The Comprehensive Plan proposes commercial development on this property.

Discussion of proposed conditions took place. Rimington presented a photo of one of their stores showing a Ford truck on display. He explained that the truck is not for sale, it is merely for demonstration. One of the proposed conditions states no outdoor automobile displays be allowed. It was suggested to allow the display of vehicles for the grand opening, not to exceed 5 days. Knartzer moved to amend the staff report to incorporate allowing vehicle display during the grand opening not to exceed 5 days, seconded by Campbell. Vote for **approval** of the **amendment to the proposed conditions** was unanimous, 4-0. **Motion carried.**

Rutherford moved that we admit into the record all evidence presented in regard to this matter, including the notices, receipts, maps, photographs, written documents, Petitioner's application and attachments, Petitioner's Detailed Statement of Reasons, the Staff Report prepared by the Planning Department, certified copies of the Zoning Ordinance and Comprehensive Plan, testimony of the Petitioner, City planning staff and any Remonstrators, and all other exhibits presented, be they oral or written, for consideration by this Board in regard to this petition, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Knartzer moved that based on the evidence presented that the Board approving the granting of a use variance to Cabela's with the following conditions

1. The Cabela's store interior shall include a mountain and wild animal display and a separate aquarium display of the size, quality and character consistent with the submitted floor plan attached as Exhibit "A".
2. A sculpted display of the quality and character commonly associated with a Cabela's typical destination retail store shall be located on the Cabela's site in proximity to the main entrance of the retail store, either within the main entrance or exterior to the building..
3. The site shall be redesigned such that the location of the horse corral and the dog kennels shall be more interior to the site and not adjacent to a Corridor Street.

4. The conduct of seasonal sales shall be limited to the area identified as "Sales Tent Location" on the attached Exhibit "B" and be conducted within a temporary structure erected for that purpose. The temporary seasonal sales shall be conducted for no more once in a three month period and for no longer than four consecutive days.
5. Outdoor automobile displays (which includes trucks) shall be prohibited except during the grand opening which is not to exceed five (5) days.
6. Boat and all terrain vehicle displays shall be limited to the area identified as "Outdoor Boat/ATV and Car Display" on the attached Exhibit "B".

Seconded by Campbell. Vote for **approval** was unanimous, 4-5. **Motion carried.**

Campbell moved that having considered the statutory criteria that we direct the City Attorney's Office to draft written Findings of Fact, regarding our decision approving Variance Petition Number V2007-019, said Findings to specifically incorporate the staff report and the evidence submitted into the record, for consideration and adoption by the Board of Zoning Appeals as our final decision and final action regarding this Petition at our next meeting, seconded by Knartzer. Vote for **approval** was unanimous, 4-0. **Motion carried.**

NEW BUSINESS

Docket V2007-022 – Dimensional Variance – Sutton Park Shoppes – located at the corner of SR 135 & Sutton Park Drive – request to allow a 15' building setback along both Marlin Dr. & Sutton Park Dr. – Hai Duong, owner; Sutton Park Shoppes, applicant. ***(Continuance to October 22nd required due to requirements of Rules of Procedure)***

Rutherford moved to continue V2007-022 to October 22, 2007, seconded by Campbell. Vote for **approval** of the **continuance** was unanimous, 4-0. **Motion carried.**

ANNOUNCEMENTS/REPORTS

2008 Meeting Schedule – Knartzer moved to approve, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.**

Rutherford moved to adjourn, seconded by Campbell. Vote for **approval** was unanimous, 4-0. **Motion carried.** Meeting was adjourned at 6:30 p.m.

JANICE NIX
Recording Secretary

PHIL TINKLE
Chairman